

1  
2  
3  
4  
5  
6  
7  
IN THE UNITED STATES DISTRICT COURT

8  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10  
11 ISAIAH N. WILLIAMS, No. C 07-04464 CW (PR)  
12 Plaintiff, ORDER DENYING MOTION FOR  
13 v. APPOINTMENT OF COUNSEL  
14 D. WILLIAMS,  
15 Defendant.

16 \_\_\_\_\_/  
17 Plaintiff requests the appointment of counsel to represent him  
18 in this action.

19 There is no constitutional right to counsel in a civil case  
20 unless an indigent litigant may lose his physical liberty if he  
21 loses the litigation. See Lassiter v. Dep't of Social Services,  
22 452 U.S. 18, 25 (1981); Rand v. Rowland, 113 F.3d 1520, 1525 (9th  
23 Cir. 1997) (no constitutional right to counsel in  
24 § 1983 action), withdrawn in part on other grounds on reh'g en  
25 banc, 154 F.3d 952 (9th Cir. 1998) (en banc). The court may ask  
26 counsel to represent an indigent litigant under 28 U.S.C. § 1915  
27 only in "exceptional circumstances," the determination of which  
28 requires an evaluation of both (1) the likelihood of success on the  
merits, and (2) the ability of the plaintiff to articulate his

United States District Court  
For the Northern District of California

1 claims pro se in light of the complexity of the legal issues  
2 involved. See id. at 1525; Terrell v. Brewer, 935 F.2d 1015, 1017  
3 (9th Cir. 1991); Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th  
4 Cir. 1986). Both of these factors must be viewed together before  
5 reaching a decision on a request for counsel under § 1915. See id.

6 The Court is unable to assess at this time whether exceptional  
7 circumstances exist which would warrant seeking volunteer counsel  
8 to accept a pro bono appointment. The proceedings are at an early  
9 stage and it is premature for the Court to determine Plaintiff's  
10 likelihood of success on the merits. Moreover, Plaintiff has been  
11 able to articulate his claims adequately pro se in light of the  
12 complexity of the issues involved. See Agyeman v. Corrections  
13 Corp. of America, 390 F.3d 1101, 1103 (9th Cir. 2004).  
14 Accordingly, the request for appointment of counsel at this time is  
15 DENIED. This does not mean, however, that the Court will not  
16 consider appointment of counsel at a later juncture in the  
17 proceedings, that is, after Defendants have filed their dispositive  
18 motion and the Court has a better understanding of the procedural  
19 and substantive matters at issue. Therefore, Plaintiff may file a  
20 renewed motion for the appointment of counsel after Defendants'  
21 dispositive motion has been filed. If the Court decides that  
22 appointment of counsel is warranted at that time, then it can seek  
23 volunteer counsel to agree to represent Plaintiff pro bono.

24 This Order terminates Docket no. 2.

25 IT IS SO ORDERED.

26 Dated: 11/5/07

  
27 CLAUDIA WILKEN  
28 UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

## ISAIAH N WILLIAMS,

Plaintiff,

V.

D WILLIAMS et al,

Defendant.

Case Number: CV07-04464 CW

## **CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

13 That on November 5, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said  
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located  
in the Clerk's office.

17 Isaiah Noel Williams K-33769  
18 Pelican Bay State Prison  
P.O. Box 7000  
5905 Lake Earl Drive  
19 Crescent City, CA 95531

Dated: November 5, 2007

Richard W. Wiekling, Clerk  
By: Lisa R. Clark, Deputy Clerk